

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

S.C.G. a minor child, through his next
friend, JAMANIC REAVES, and
K.L.P., on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

CANDICE BROCE, in her official
capacity as COMMISSIONER OF
THE GEORGIA DEPARTMENT OF
HUMAN SERVICES,

Defendant.

Case No.: 1:22-CV-01324-LMM

DEFENDANT’S MOTION TO DISMISS AMENDED COMPLAINT

Defendant Candice Broce, in her official capacity as Commissioner of the Georgia Department of Human Services (“DHS”), hereby moves for the dismissal of Plaintiffs’ Amended Complaint and claims pursuant to Fed. R. Civ. P. 12(b)(1) and (6).

Plaintiffs bring this civil rights lawsuit on behalf of themselves and a putative class of children and young adults who are undocumented aliens in the custody of the Georgia Division of Family and Children Services (“DFCS”). Their claims relate to extended foster care benefits available in some circumstances after a child reaches the age of 18. Plaintiffs contend that Defendant violated: (1) the federal

Adoption Assistance and Child Welfare Act (“AACWA”) and O.C.G.A. § 15-11-201, *et seq.* when it failed to implement Plaintiffs’ case plans by not hiring immigration counsel for Plaintiffs to seek special immigrant juvenile status (“SIJS”); and (2) the Due Process Clauses of the 14th Amendment and the Georgia Constitution by failing to provide notice and a hearing to Plaintiffs when it did not provide them with extended foster care benefits. Plaintiffs seek declaratory and injunctive relief to correct these perceived wrongs.

Under Fed. R. Civ. P. 12(b)(1) and (6), dismissal is warranted for at least three reasons. *First*, Plaintiffs lack standing and their claims are otherwise moot because Plaintiffs are over the age of 18 and ineligible for extended foster care services, and because they filed for SIJS with their own immigration attorneys before filing this lawsuit. Since their claims are barred, dismissal is warranted as to the entire putative class. *Second*, the claims are barred by the *Younger* abstention doctrine, because Plaintiffs ask this Court to oversee and administer pending juvenile court cases and potentially issue rulings reserved to Georgia state court judges. *Third*, all four of Plaintiffs’ Counts fail to satisfy the pleading standards set forth in *Iqbal*, *Twombly*, and their progeny, or otherwise fail to state a claim upon which relief may be granted. Each argument is discussed in detail in the supporting brief filed with this motion.

This 6th day of July, 2022.

/s/ Christopher M. Carr

CHRISTOPHER M. CARR 112505
Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334

/s/T. Mills Fleming

T. MILLS FLEMING 263560
Special Assistant Attorney General
Hunter, Maclean, Exley & Dunn, P.C.
Post Office Box 9848
Savannah, Georgia 31412
Telephone: (912) 236-0261
Facsimile: (912) 236-4936
Email: mfleming@huntermaclean.com

/s/Bryan K. Webb

BRYAN K. WEBB 743580
Deputy Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334

/s/Kirby G. Mason

KIRBY G. MASON 302310
Hunter, Maclean, Exley & Dunn, P.C.
Post Office Box 9848
Savannah, Georgia 31412
Telephone: (912) 236-0261
Facsimile: (912) 236-4936
Email: kmason@huntermaclean.com

/s/Shalen S. Nelson

SHALEN S. NELSON 636575
Senior Assistant Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **DEFENDANT'S MOTION TO DISMISS AMENDED COMPLAINT** upon all parties to this matter by using the CM/ECF system which will send a notice of electronic filing to the following:

Thomas C. Rawlings
Deborah A. Ausburn
Taylor English and Duma LLP
1600 Parkwood Circle, Suite 200
Atlanta, Georgia 30339

Joshua H. Norris
Law Office of Joshua H. Norris, LLC
One West Court Square, Suite 750
Decatur, Georgia 30030

I further certify that the foregoing has been prepared with Times New Roman font in 14-point size, as approved by the Court in N.D. Ga. Local Rule 5.1(C).

This 6th day of July, 2022.

/s/ Christopher M. Carr

CHRISTOPHER M. CARR 112505
Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334

/s/T. Mills Fleming

T. MILLS FLEMING 263560
Special Assistant Attorney General
Hunter, Maclean, Exley & Dunn, P.C.
Post Office Box 9848
Savannah, Georgia 31412
Telephone: (912) 236-0261
Facsimile: (912) 236-4936
Email: mfleming@huntermaclean.com

/s/Bryan K. Webb

BRYAN K. WEBB 743580
Deputy Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334

/s/Kirby G. Mason

KIRBY G. MASON 302310
Hunter, Maclean, Exley & Dunn, P.C.
Post Office Box 9848
Savannah, Georgia 31412
Telephone: (912) 236-0261
Facsimile: (912) 236-4936
Email: kmason@huntermaclean.com

/s/Shalen S. Nelson

SHALEN S. NELSON 636575
Senior Assistant Attorney General
Georgia Department of Law
40 Capitol Square NW
Atlanta, Georgia 30334